

AMENDED IN ASSEMBLY JUNE 1, 2005

AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1505

**Introduced by Assembly Member La Suer
(Coauthor: Assembly Member Cohn)**

February 22, 2005

An act to amend Sections 2085.5 ~~and 3000~~ of the Penal Code, relating to restitution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1505, as amended, La Suer. Victim restitution.

Existing law prohibits deductions from being made from an inmate's wages and trust account for a restitution order if the victim has not filed an application with the Victim Compensation Program.

This bill would not require a victim to file an application with the Victim Compensation Program in order to receive money from the program.

~~Under existing law, the Director of Corrections may collect money for a restitution fine or order from a parolee.~~

~~This bill would require the director to do so.~~

~~Existing law authorizes the Department of Corrections of the Board of Prison Terms to impose as a condition of parole that a prisoner make payments on any outstanding restitution fines or orders.~~

~~This bill would require that condition of parole.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2085.5 of the Penal Code is amended to read:

2085.5. (a) In any case in which a prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the Director of Corrections shall deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 50 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. Any amount so deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(b) In any case in which a prisoner owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (f) of Section 1202.4, the Director of Corrections shall deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 50 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law. The director shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program. The sentencing court shall be provided a record of the payments made to victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(c) The director shall deduct and retain from the wages and trust account deposits of a prisoner, unless prohibited by federal law, an administrative fee that totals 10 percent of any amount transferred to the California Victim Compensation and Government Claims Board pursuant to subdivision (a) or (b). The director shall deduct and retain from any prisoner settlement or

1 trial award, an administrative fee that totals 5 percent of any
2 amount paid from the settlement or award to satisfy an
3 outstanding restitution order or fine pursuant to subdivision (j),
4 unless prohibited by federal law. The director shall deposit the
5 administrative fee moneys in a special deposit account for
6 reimbursing administrative and support costs of the restitution
7 program of the Department of Corrections. The director, at his or
8 her discretion, may retain any excess funds in the special deposit
9 account for future reimbursement of the department's
10 administrative and support costs for the restitution program or
11 may transfer all or part of the excess funds for deposit in the
12 Restitution Fund.

13 (d) In any case in which a parolee owes a restitution fine
14 imposed pursuant to subdivision (a) of Section 13967 of the
15 Government Code, as operative prior to September 28, 1994,
16 subdivision (b) of Section 730.6 of the Welfare and Institutions
17 Code, or subdivision (b) of Section 1202.4, the Director of
18 Corrections ~~shall~~ *may* collect from the parolee any moneys owing
19 on the restitution fine amount, unless prohibited by federal law.
20 The director shall transfer that amount to the California Victim
21 Compensation and Government Claims Board for deposit in the
22 Restitution Fund in the State Treasury. Any amount so deducted
23 shall be credited against the amount owing on the fine. The
24 sentencing court shall be provided a record of the payments.

25 (e) In any case in which a parolee owes a direct order of
26 restitution, imposed pursuant to subdivision (c) of Section 13967
27 of the Government Code, as operative prior to September 28,
28 1994, subdivision (h) of Section 730.6 of the Welfare and
29 Institutions Code, or paragraph (3) of subdivision (a) of Section
30 1202.4, the Director of Corrections ~~shall~~ *may* collect from the
31 parolee any moneys owing, unless prohibited by federal law. The
32 director shall transfer that amount to the California Victim
33 Compensation and Government Claims Board for direct payment
34 to the victim, or payment shall be made to the Restitution Fund to
35 the extent that the victim has received assistance pursuant to that
36 program. The sentencing court shall be provided a record of the
37 payments made by the offender pursuant to this subdivision.

38 (f) The director may deduct and retain from any moneys
39 collected from parolees an administrative fee that totals 10
40 percent of any amount transferred to the California Victim

1 Compensation and Government Claims Board pursuant to
2 subdivision (d) or (e), unless prohibited by federal law. The
3 director shall deduct and retain from any settlement or trial award
4 of a parolee an administrative fee that totals 5 percent of any
5 amount paid from the settlement or award to satisfy an
6 outstanding restitution order or fine pursuant to subdivision (j),
7 unless prohibited by federal law. The director shall deposit the
8 administrative fee moneys in a special deposit account for
9 reimbursing administrative and support costs of the restitution
10 program of the Department of Corrections. The director, at his or
11 her discretion, may retain any excess funds in the special deposit
12 account for future reimbursement of the department's
13 administrative and support costs for the restitution program or
14 may transfer all or part of the excess funds for deposit in the
15 Restitution Fund.

16 (g) When a prisoner or parolee has both a restitution fine and a
17 restitution order from the sentencing court, the Department of
18 Corrections shall collect the restitution order first pursuant to
19 subdivision (b) or (e).

20 (h) *When a parolee has both a restitution fine and a*
21 *restitution order from the sentencing court, the Department of*
22 *Corrections may collect the restitution order first, pursuant to*
23 *subdivision (e).*

24 (i) *It is the intent of the Legislature that the Department of*
25 *Corrections consider utilizing a collection service such as the*
26 *Franchise Tax Board court-ordered debt collection program for*
27 *the collection of restitution fines and restitution orders from*
28 *parolees.*

29 (j) If an inmate is housed at an institution that requires food
30 to be purchased from the institution canteen for unsupervised
31 overnight visits, and if the money for the purchase of this food is
32 received from funds other than the inmate's wages, that money
33 shall be exempt from restitution deductions. This exemption shall
34 apply to the actual amount spent on food for the visit up to a
35 maximum of fifty dollars (\$50) for visits that include the inmate
36 and one visitor, seventy dollars (\$70) for visits that include the
37 inmate and two or three visitors, and eighty dollars (\$80) for
38 visits that include the inmate and four or more visitors.

39 (i)

1 (k) Any compensatory or punitive damages awarded by trial or
2 settlement to any inmate or parolee in connection with a civil
3 action brought against any federal, state, or local jail, prison, or
4 correctional facility, or any official or agent thereof, shall be paid
5 directly, after payment of reasonable attorney's fees and
6 litigation costs approved by the court, to satisfy any outstanding
7 restitution orders or restitution fines against that person. The
8 balance of any award shall be forwarded to the payee after full
9 payment of all outstanding restitution orders and restitution fines,
10 subject to subdivisions (c) and (f). The Department of
11 Corrections shall make all reasonable efforts to notify the victims
12 of the crime for which that person was convicted concerning the
13 pending payment of any compensatory or punitive damages.

14 ~~(j)~~

15 (l) (1) Amounts transferred to the California Victim
16 Compensation and Government Claims Board for payment of
17 direct orders of restitution shall be paid to the victim within 60
18 days from the date the restitution revenues are received by the
19 California Victim Compensation and Government Claims Board.
20 If the restitution payment to a victim is less than fifty dollars
21 (\$50), then payment need not be forwarded to that victim until
22 the payment reaches fifty dollars (\$50) or until 180 days from the
23 date the first payment is received, whichever occurs sooner.

24 (2) In any case in which a victim cannot be located, the
25 restitution revenues received by the California Victim
26 Compensation and Government Claims Board on behalf of the
27 victim shall be held in trust in the Restitution Fund until the end
28 of the state fiscal year subsequent to the state fiscal year in which
29 the funds were deposited or until the time that the victim has
30 provided current address information, whichever occurs sooner.
31 Amounts remaining in trust at the end of the specified period of
32 time shall revert to the Restitution Fund.

33 (3) Any victim failing to provide a current address within the
34 period of time specified in paragraph (2) may provide
35 documentation to the Department of Corrections, which in turn
36 shall verify that moneys were in fact collected on behalf of the
37 victim. Upon receipt of that verified information from the
38 Department of Corrections, the California Victim Compensation
39 and Government Claims Board shall transmit the restitution

1 revenues to the victim in accordance with the provisions of
2 subdivision (b) or (e).

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**All matter omitted in this version of the bill
appears in the bill as amended in Assembly,
May 2, 2005 (JR11)**

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